

Appl. No. 10/089,343
Atty. Docket No. CM2207MQL
Amdt. dated September 9, 2004
Reply to Final Office Action of June 10, 2004
Customer No. 27752

REMARKS

Claims 1-7 remain in this Application and are presented for the Examiner's reconsideration in light of the following comments. No additional claims fee is believed to be due.

Claims 1 and 7 have been amended to correct typographical errors concerning the [rrrr] pentads. Support for these amendments may be found in the Specification in the last paragraph on page 4. Claims 1 and 7 have also been amended to further limit the isotacticity to be less than 40% of [mmmm] pentad concentration. Support for these amendments may be found in the Specification beginning in the last paragraph of page 3.

Rejections Under 35 U.S.C. §112

Claims 1-7 have been rejected under 35 U.S.C. §112, ¶1 for "failing to comply with the written description requirement." Additionally, Claims 1-7 have been rejected under 35 U.S.C. §112, ¶2, for "failing to point out and distinctly claim the subject matter which applicant regards as the invention." Applicants have amended Claims 1 and 7 to include the "[rrrr] pentad" as per the Specification rather than the misspelled "[rrr] pentad". Applicants therefore request withdrawal of the §112, ¶1 and ¶2 rejections to Claims 1 and 7, and to Claims 2-6, which depend, or ultimately depend, from claim 1.

Rejection Under 35 U.S.C. §103

Claims 1-7 have been rejected under 35 U.S.C. §103(a) as being unpatentable over *Ewen*, U.S. Patent No. 4,522,982. Applicants respectfully traverse this rejection on the basis that *Ewen* does not teach or suggest all of the present claim limitations.

According to MPEP §2143, to establish a *prima facie* case of obviousness, the cited reference must teach or suggest all the claim limitations. According to the Office Action, *Ewen* "...discloses elastomeric polypropylene made using a metallocene catalyst, with working example 2 including all limitations directed to the polymer (see also Table III)." Table III indicates that *Ewen*'s working example 2 has [mmmm] pentad experimental and calculated concentrations of 48.5 and 50.3% respectively. In contrast, Claims 1 and 7 have newly been amended to further limit the isotacticity of the invention

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to be less than 40% and more than 10% of [mmmm] pentad concentration. Not only does the high end of the presently claimed [mmmm] concentration range fall *well below* that of *Ewen*, *Ewen* does not teach how to make, or why it would be of benefit to make, polymers with [mmmm] pentad concentrations as much as *5 times lower* than those that *Ewen* discloses. Consequently, *Ewen* does not teach *or* suggest all of the claim limitations of newly amended Claims 1 and 7. It follows that *Ewen* also does not teach or suggest all of the limitations of Claims 3-6, which depend, or ultimately depend, from claim 1. Since *Ewen* does not teach or suggest all of the present limitations in Claims 1-7, Applicants respectfully request withdrawal of the rejections under 35 U.S.C. §103(a).

As an aside, Applicants wish to note that the calculated [mrmr] pentad concentration in *Ewen's* working example 2 is 3.6%, which falls outside of the claimed [mrm] pentad concentration of below 3% in Claims 1 and 7.

Conclusion

Applicants have made an earnest effort to place their application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, Applicants respectfully request reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 1-7.

Respectfully submitted,
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